

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0444-AGR-E TCEQ ID: RN104804794 CASE NO.: 33039
RESPONDENT NAME: NC-Nortex Cattle Company, LLC

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: NC-Nortex Cattle Company, approximately 0.6 miles west of the intersection of Farm-to-Market Road 1763 and United States Highway 287 at Paradise Creek, Wilbarger County</p> <p>TYPE OF OPERATION: Cattle feeding operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Michael Ingalls, Director, NC-Nortex Cattle Company, LLC, 834 Hardee Road, Suite 814, Kinston, North Carolina 28504-3360 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 21, 2006</p> <p>Date of NOE Relating to this Case: February 19, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to prevent the unauthorized discharge of agricultural waste from a concentrated animal feeding operation ("CAFO"). Specifically, the investigator observed contaminated stormwater runoff flowing from the cattle pens to Paradise Creek, which is located directly between the cattle pens [TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to obtain authorization to operate a CAFO under a water quality general permit or individual permit. Specifically, during the investigation, it was determined that the Facility is operating at the capacity of a large CAFO due to the number of cattle (more than 1,000) without authorization [30 TEX. ADMIN. CODE § 321.33(c)].</p>	<p>Total Assessed: \$6,300</p> <p>Total Deferred: \$1,260 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,040</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on May 24, 2007, the Respondent submitted documentation showing that the Respondent no longer owns and operates the Facility.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES

Assigned

26-Feb-2007

PCW

24-May-2007

Screening

22-Mar-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent NC-Nortex Cattle Company, LLC

Reg. Ent. Ref. No. RN104804794

Facility/Site Region 3-Abilene

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 33039

Docket No. 2007-0444-AGR-E

Media Program(s) Water Quality

Multi-Media

No. of Violations 2

Order Type 1660

Enf. Coordinator Lynley Doyen

EC's Team EnforcementTeam 1

Admin. Penalty \$ Limit Minimum \$0 **Maximum** \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$6,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

5% Enhancement

Subtotals 2, 3, & 7

\$300

Notes

The penalty is enhanced because the Respondent received one NOV with violations same or similar to those cited in this action.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$1,265
Approx. Cost of Compliance \$14,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$6,300

OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

\$6,300

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$6,300

DEFERRAL

20%

Reduction

Adjustment

-\$1,260

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$5,040

Screening Date 22-Mar-2007

Docket No. 2007-0444-AGR-E

PCW

Respondent NC-Nortex Cattle Company, LLC

Policy Revision 2 (September 2002)

Case ID No. 33039

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104804794

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments of consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The penalty is enhanced because the Respondent received one NOV with violations same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 22-Mar-2007

Docket No. 2007-0444-AGR-E

PCW

Respondent NC-Nortex Cattle Company, LLC

Policy Revision 2 (September 2002)

Case ID No. 33039

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104804794

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent the unauthorized discharge of agricultural waste from a concentrated animal feeding operation ("CAFO"). Specifically, the investigator observed contaminated stormwater runoff flowing from the cattle pens to Paradise Creek, which is located directly between the cattle pens.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the unauthorized discharge.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

91 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the date of the unauthorized discharge (December 21, 2006) through the date of screening (March 22, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$59

Violation Final Penalty Total \$2,100

This violation Final Assessed Penalty (adjusted for limits) \$2,100

Economic Benefit Worksheet

Respondent NC-Nortex Cattle Company, LLC
Case ID No. 33039
Reg. Ent. Reference No. RN104804794
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$2,000	21-Dec-2006	24-May-2007	0.4	\$3	\$56	\$59
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement best management practices to prevent unauthorized discharges of agricultural waste. Date required is the investigation date. Final date is the date the Respondent no longer owned or operated the Facility.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$59

Screening Date 22-Mar-2007

Docket No. 2007-0444-AGR-E

PCW

Respondent NC-Nortex Cattle Company, LLC

Policy Revision 2 (September 2002)

Case ID No. 33039

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104804794

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 321.33(c)

Violation Description

Failed to obtain authorization to operate a CAFO under a water quality general permit or individual permit. Specifically, during the investigation, it was determined that the Facility is operating at the capacity of a large CAFO due to the number of cattle (more than 1,000) without authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

91 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four monthly events are recommended based on the investigation date (December 21, 2006) through the date of screening (March 22, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,206

Violation Final Penalty Total \$4,200

This violation Final Assessed Penalty (adjusted for limits) \$4,200

Economic Benefit Worksheet

Respondent NC-Nortex Cattle Company, LLC
Case ID No. 33039
Reg. Ent. Reference No. RN104804794
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$12,000	16-Dec-2005	24-May-2007	1.4	\$57	\$1,148	\$1,206
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a technically complete permit application. Associated expenses include application fee, site survey, and engineering certifications. Date required is the initial date authorization was required. Final date is the date the Respondent no longer owned or operated the Facility.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$12,000

TOTAL

\$1,206

Compliance History

Customer/Respondent/Owner-Operator:	CN602982282	NC-Nortex Cattle Company, LLC	Classification: AVERAGE	Rating: 3.67
Regulated Entity:	RN104804794	NC-NORTEX CATTLE COMPANY	Classification: AVERAGE	Site Rating: 3.67
ID Number(s):	WASTEWATER AGRICULTURE	PERMIT	TXG920901	
Location:	APPRX 0.6 M W OF THE INTSX OF FM 1763 AND U.S. HWY 287 AT PARADISE CK, WILBARGER CO, TX			Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	March 16, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 16, 2002 to March 16, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Lynley Doyen	Phone: 512-239-1364			

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? Nortex Cattle Company LLC
5. When did the change(s) in ownership occur? 01/24/2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/16/2005 (449798)
2 08/02/2006 (489760)
3 02/19/2007 (540885)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 12/16/2005 (449798)

Self Report? NO	Classification: Major
Citation: 30 TAC Chapter 321, SubChapter B 321.33(c)	
Description: Failure to obtain permit coverage when operation increased number of cattle to meet the definition of a confined animal feeding operation.	
Self Report? NO	Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)	
Description: Failure to prevent the discharge of contaminated stormwater runoff into Paradise Creek.	
Self Report? NO	Classification: Minor
Citation: 30 TAC Chapter 321, SubChapter B 321.47(b)(3)(B)	
Description: Failure to properly dispose of dead cattle.	
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NC-NORTEX CATTLE
COMPANY, LLC
RN104804794**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY
§**

AGREED ORDER DOCKET NO. 2007-0444-AGR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NC-Nortex Cattle Company, LLC ("Nortex") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Nortex appear before the Commission and together stipulate that:

1. Nortex owned and operated a cattle feeding operation located approximately 0.6 mile west of the intersection of Farm-to-Market Road 1763 and United States Highway 287 at Paradise Creek in Wilbarger County, Texas (the "Facility").
2. Nortex has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Nortex agree that the Commission has jurisdiction to enter this Agreed Order, and that Nortex is subject to the Commission's jurisdiction.
4. Nortex received notice of the violations alleged in Section II ("Allegations") on or about February 24, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Nortex of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Three Hundred Dollars (\$6,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Nortex has paid Five Thousand Forty Dollars (\$5,040) of the administrative penalty and One Thousand Two Hundred Sixty Dollars (\$1,260) is deferred contingent upon Nortex's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Nortex fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Nortex to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Nortex have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on May 24, 2007, Nortex submitted documentation showing that Nortex no longer owns and operates the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Nortex has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Nortex is alleged to have:

1. Failed to prevent the unauthorized discharge of agricultural waste from a CAFO, in violation of TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on December 21, 2006. Specifically, the investigator observed contaminated stormwater runoff flowing from the cattle pens to Paradise Creek, which is located directly between the cattle pens.
2. Failed to obtain authorization to operate a CAFO under a water quality general permit or individual permit, in violation of 30 TEX. ADMIN. CODE § 321.33(c), as documented during an investigation conducted on December 21, 2006. Specifically, during the investigation, it was determined that the Facility is operating at the capacity of a large CAFO due to the number of cattle (more than 1,000) without authorization.

III. DENIALS

Nortex generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Nortex pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Nortex's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: NC-Nortex Cattle Company, LLC, Docket No. 2007-0444-AGR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Nortex.
3. This Agreed Order, issued by the Commission, shall not be admissible against Nortex in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Nortex, or three days after the date on which the Commission mails notice of the Order to Nortex, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Allen
For the Executive Director

8/21/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Michael Irigoin
Signature

May 30, 2007
Date

Michael Irigoin
Name (Printed or typed)
Authorized Representative of
NC-Nortex Cattle Company, LLC

Member / Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

